

THE CITY OF CLAYTON

Board of Aldermen
City Hall – 10 N. Bemiston Avenue
December 8, 2015
7:00 p.m.

Minutes

Mayor Sanger called the meeting to order and requested a roll call. The following individuals were in attendance:

Aldermen: Cynthia Garnholz, Mark Winings, Joanne Boulton, Alex Berger III, Rich Lintz, and Ira Berkowitz.

Mayor Sanger
City Manager Owens
City Attorney O'Keefe

Alderman Boulton moved to approve the November 10, 2015 minutes. Alderman Winings seconded.

The motion to approve the minutes passed unanimously on a voice vote.

PUBLIC REQUESTS AND PETITIONS

None

PUBLIC HEARING AND A RESOLUTION TO CONSIDER APPROVING A CONDITIONAL USE PERMIT FOR DANIELLE'S PLACE LOCATED AT 216 N. MERAMEC AVENUE (HAMPTON INN)

Mayor Sanger opened the public hearing and requested proof of publication.

City Manager Owens reported that this is a public hearing and subsequent resolution for a conditional use permit for the operation of a restaurant to be known as Danielle's Place.

The subject property is located on the east side of North Meramec Avenue between Maryland Avenue and Kingsbury Boulevard. The property, which contains a Hampton Inn hotel, has a zoning designation of Planned Unit Development (PUD). The hotel opened in October 2014. A condition of the PUD approval was that the hotel contain a public restaurant. The 2,282-square-foot restaurant space, located on the ground floor, seats 70 patrons. Breakfast is available for purchase during the morning hours, and a select menu of small plate appetizers and entrees is available in the evenings. The restaurant is currently operating.

The restaurant is open Monday through Friday from 6:30 am to 9:30 am, and from 4:30 pm to 11:00 pm; and Saturday and Sunday from 7:00 am to 10:00 am, and from 4:30 pm to 11:00 pm. Deliveries to the restaurant are made in the morning through the building's side entrance. Delivery service from the restaurant is not proposed. Trash is stored in existing receptacles located in the loading area. The restaurant does not participate in a recycling program. Valet services are located on North Meramec Avenue.

The Plan Commission considered this request at their November 16, 2015 meeting and voted to recommend approval of the Conditional Use Permit to the Board of Aldermen with the condition that a bicycle rack be provided in accordance with the bicycle parking regulations.

Recommendation is to conduct a public hearing and approve the resolution.

Conor Pandl, Equis Hospitality Management, addressed the Board with his concerns regarding *Section 2.5 – "That the operation will be a full service restaurant..."*

In response to Mr. Pandl's request, City Attorney O'Keefe suggested an amendment to the wording to read as follows: *Section 2.5 – "That the operation will be open to the public and arranged and equipped to accommodate on-site consumption by patrons with an interior seating capacity of approximately 70."*

In response to the Board's questions, Mr. Pandl stated that the restaurant does not provide table service, but that they have a bar area where patrons can also have dinner. He stated that they do not have outdoor "dining" they provide outdoor seating for patrons to use. He added that for outdoor dining they would have to go through the proper permit application procedures to provide outdoor dining if they decide to do so in the future. Mr. Pandl confirmed that they have a very limited menu (copy provided in the Board's packet).

Mayor Sanger closed the public hearing.

Alderman Garnholz moved to amend the wording to Resolution No. 15-19 per City Attorney O'Keefe's recommendation. Alderman Winings seconded.

The motion passed unanimously on a voice vote.

Alderman Garnholz moved to approve Resolution No. 15-19, a Conditional Use Permit for Danielle's Place at 216 N. Meramec Avenue (Hampton Inn) as amended. Alderman Winings seconded.

The motion passed unanimously on a voice vote.

ORDINANCE TO PLACE A BALLOT PROPOSITION ON THE APRIL 5, 2016 ELECTION TO CONTINUE THE LOCAL SALES TAX ON OUT-OF-STATE VEHICLE SALES

City Manager Owens reported that following a court decision which invalidated local sales taxes on vehicles purchased out-of-state, the legislature reinstated this tax for all jurisdictions with local sales taxes. This same legislation stipulates that each entity levying a sales tax must place on the ballot the question of retaining the sales tax on out-of-state and non-licensed-dealer vehicle purchases. This election must take place by November 2016. If the City of Clayton fails to place the question on the ballot or if the ballot issue fails, out-of-state and private (i.e. from other than a licensed Missouri dealer) vehicle sales tax collections will cease. Per estimates provided by the Missouri Department of Revenue, it is projected that the effect on the City would be reduced revenue of approximately \$136,000 per year, or potentially a total of \$226,000 per year should St. Louis County also not pass a similar ballot proposition. Kevin O'Keefe presented additional information on this issue at the BOA meeting on November 10, 2015.

The St. Louis County Municipal League is supporting a coordinated messaging effort to have this ballot issue in all municipalities and the county on the April 2016 election. Attached is an ordinance placing this proposition on the City's April 5, 2016 General Municipal Election.

Staff recommends approving this ordinance placing a ballot proposition regarding the continuation of the sales tax on out-of-state vehicle purchases on the April 5, 2016, General Municipal Election.

In response to Mayor Sanger and Alderman Garnholz's questions, City Attorney O'Keefe stated that he is not aware if St. Louis County will submit the tax issue on its ballot and if so, the County's ballot submittal will be county-wide for the County's tax only. He clarified that cities that place the issue on the ballot is separate from the County's submittal.

In response to Alderman Garnholz's question, City Attorney O'Keefe confirmed that it would be a simple majority vote.

In response to Alderman Berkowitz's question, City Attorney O'Keefe stated that if the County places the issue on the ballot it would be for the County's one-cent (county wide) sales tax.

Alderman Garnholz introduced Bill No. 6530, an Ordinance Submitting to the Qualified Voters of the City of Clayton, Missouri, for Their Approval at the General Municipal Election To Be Held in the City On the 5th Day of April, 2016, a Proposition to Authorize the City to Continue Applying and Collecting the Local Sales Tax on the Titling of Motor Vehicles, Trailers, Boats, and Outboard Motors that Were Purchased From a Source Other Than a Licensed Missouri Dealer to be read for the first time by title only. Alderman Winings seconded.

Alderman Winings noted that he previously submitted an email to staff regarding a correction – the (second) question mark in the ballot wording should instead be a period. Correction duly noted and confirmed by the City Attorney and City Clerk.

City Attorney O’Keefe reads Bill No. 6530, an Ordinance Submitting to the Qualified Voters of the City of Clayton, Missouri, for Their Approval at the General Municipal Election To Be Held in the City On the 5th Day of April, 2016, a Proposition to Authorize the City to Continue Applying and Collecting the Local Sales Tax on the Titling of Motor Vehicles, Trailers, Boats, and Outboard Motors that Were Purchased From a Source Other Than a Licensed Missouri Dealer for the first time by title only.

The motion passed unanimously on a voice vote.

Alderman Garnholz moved that the Board give unanimous consent to consideration for adoption of Bill No. 6530 on the day of its introduction. Alderman Winings seconded.

The motion passed unanimously on a voice vote.

Alderman Garnholz introduced Bill No. 6530, an Ordinance Submitting to the Qualified Voters of the City of Clayton, Missouri, for Their Approval at the General Municipal Election To Be Held in the City On the 5th Day of April, 2016, a Proposition to Authorize the City to Continue Applying and Collecting the Local Sales Tax on the Titling of Motor Vehicles, Trailers, Boats, and Outboard Motors that Were Purchased From a Source Other Than a Licensed Missouri Dealer to be read for the second time by title only. Alderman Winings seconded.

City Attorney O’Keefe reads Bill No. 6530, an Ordinance Submitting to the Qualified Voters of the City of Clayton, Missouri, for Their Approval at the General Municipal Election To Be Held in the City On the 5th Day of April, 2016, a Proposition to Authorize the City to Continue Applying and Collecting the Local Sales Tax on the Titling of Motor Vehicles, Trailers, Boats, and Outboard Motors that Were Purchased From a Source Other Than a Licensed Missouri Dealer for the second time by title only.

Alderman Garnholz – Aye; Alderman Winings – Aye; Alderman Boulton – Aye; Alderman Berger – Aye; Alderman Lintz – Aye; Alderman Berkowitz – Aye; and Mayor Sanger – Aye. The bill was adopted and became Ordinance No. 6401 of the City of Clayton.

AN ORDINANCE TO CONSIDER AN AGREEMENT WITH MODOT FOR THE BRENTWOOD BOULEVARD RESURFACING PROJECT

City Manager Owens reported that in February of 2015, the City of Clayton applied for a grant from the East-West Gateway Council of Governments to resurface Brentwood Boulevard from Forsyth Boulevard to Clayton Road. The project qualified for funding through the Surface Transportation Program. The City recently received notification that this project has been approved for funding by East-West Gateway. Forty-five percent of the construction cost (\$513,513.00) will be funded through their Transportation Improvement Program (TIP), with fifty-five percent funded by the City (\$627,627.00). The project design and any easement/right-of-way acquisition would also be funded by the City; this cost is currently projected to be \$78,468.00 for a total City contribution of \$706,095. This project is budgeted over 3 years with design beginning in 2016 and construction taking place in 2018.

The project will include not only the milling and replacement of 2" of asphalt, but replacement of damaged curb & gutter, improvement of curb ramps to ADA standards, and replacement of Brickprint crosswalks with interlocking paver crosswalks. A landscaped median is also proposed between Shaw Park Drive and Bonhomme Avenue.

The landscaped median and interlocking paver crosswalk, referenced above, would not be viewed as an infrastructure need/requirement for the East-West Gateway Council during their selection process. Therefore, if the construction estimate is considered without the cost of the landscaped island (\$186,686) and interlocking paver crosswalk (\$45,408), the Federal Match (TIP) constitutes fifty-seven percent (\$513,513) of the total construction estimate (\$909,056).

The Missouri Department of Transportation has provided this agreement, which the Missouri Highways and Transportation Commission will not approve if modified in any way.

Staff recommendation is to approve the ordinance authorizing execution of an agreement with the Missouri Highways and Transportation Commission for the funding of the Brentwood Boulevard Resurfacing Project.

Jeff Leonard, Davis Place resident, addressed the Board with his suggestion to consider extending the median portion of the project further south on Brentwood Boulevard to the 170 overpass from Shaw and Bonhomme Avenues and felt that this is a perfect opportunity during the construction process. He spoke of his concern for pedestrians who walk along Brentwood and also the added safety from the busy traffic that the new median could offer.

Mayor Sanger commented that he understands his concerns, but unfortunately those additional expenses would be the City's responsibility which would not be fiscally achievable at this time.

Alderman Garnholz introduced Bill No. 6531, an ordinance to approve an agreement with MoDOT for the Brentwood Boulevard Resurfacing Project to be read for the first time by title only. Alderman Winings seconded.

In response to Alderman Winings' question, City Manager Owens stated that the City will hire the engineers and during the design process they can look at different options and modifications. He stressed that the main issue is the money because once the ordinance is approved the City is accepting the grant and it will fulfill the requirements of MoDOT. If any enhancements occur it will be the City's financial responsibility.

City Attorney O'Keefe reads Bill No. 6531, an Ordinance Providing for the approval and execution of an STP-Urban Program agreement between the City of Clayton and the Missouri Highways and Transportation Commission and actions related thereto for the first time by title only.

The motion passed unanimously on a voice vote.

Alderman Garnholz moved that the Board give unanimous consent to consideration for adoption of Bill No. 6531 on the day of its introduction. Alderman Winings seconded.

The motion passed unanimously on a voice vote.

Alderman Garnholz introduced Bill No. 6531, an ordinance to approve an agreement with MoDOT for the Brentwood Boulevard Resurfacing Project to be read for the second time by title only. Alderman Winings seconded.

City Attorney O'Keefe reads Bill No. 6531, an Ordinance Providing for the approval and execution of an STP-Urban Program agreement between the City of Clayton and the Missouri Highways and Transportation Commission and actions related thereto for the second time by title only.

Alderman Garnholz – Aye; Alderman Winings – Aye; Alderman Boulton – Aye; Alderman Berger – Aye; Alderman Lintz – Aye; Alderman Berkowitz – Aye; and Mayor Sanger – Aye. The bill was adopted and became Ordinance No. 6402 of the City of Clayton.

AN ORDINANCE TO CONSIDER A RECIPROCAL FACILITY USE AGREEMENT BY AND BETWEEN THE CITY OF CLAYTON AND THE SCHOOL DISTRICT OF CLAYTON

City Manager Owens reported that The Reciprocal Facility Use Agreement before you tonight is intended to formalize the way in which the City of Clayton (the “City”) and the School District of Clayton (the “District”) share their facilities, both athletic and others, and the conditions under which they do so. Over the years various agreements have been entered into between the parties, normally in response to a specific need or circumstance (i.e. the construction of the artificial turf field at Gay Field). This has, at times, resulted in conflicting documents. In addition to this issue, there were several facilities that had traditionally been used (i.e. the tennis center) for which no written agreement existed. In those cases, it was up to staff to determine if usage would be allowed and under what conditions. While traditional usage helped make these determinations, it meant that both parties were counting on past practice and good memories to guide decision-making. As a result of these two issues it was determined that it would be helpful to create one all-inclusive document that would serve as a guide for usage at all facilities owned by either the City of District (with the exception of the Center of Clayton due to its unique ownership structure and the fact that its usage is covered under other agreements).

The body of the document covers items related to purpose, ownership, scheduling, maintenance, utilities, insurance, license, term, dispute resolution and several general provisions. The appendices establish priority usage times for facilities as well as detail specific guidelines for each facility. In order to allow for ease in adapting to changing conditions, the City Manager and the Chief Financial Officer for the District will have the ability to make modifications or exception to the agreement through a simple letter of agreement.

The term of this agreement will be for twenty (20) years and shall automatically renew for additional five (5) year periods unless either party elects to terminate the Agreement by notifying the other in writing no later than thirty (30) days prior to the end of the current term.

Recommendation is to approve the Reciprocal Facility Use Agreement as submitted.

The Board expressed their appreciation to Patty DeForrest and staff on a job well done.

Patty DeForrest commented that she has been working together with Mary Jo Gruber for a year and all of the coaches as well as the athletic director and Center staff to get to this point.

Alderman Berkowitz commented that he was amazed and this is phenomenal, congratulating Patty on a nice job.

City Manager Owens added that the Parks and Recreation Commission met this week and had a few suggested changes to the chart that was provided to the Board.

Alderman Boulton commented that this led to a discussion at Parks and Recreation about who are the City “Affiliated Users”. At the February 2016 P&R meeting they are scheduled to discuss which organizations are affiliated and how they become affiliated to the city. The P&R committee was concerned that the chart labels could be confusing since the same term “affiliated users” is used by both the City and the School District. The other point that came up at P&R was that this agreement is simply to document the current use practices occurring right now,

In response to Alderman Winings question regarding the goals, equitability, and sharing of the resources, Patty DeForrest explained that the goal was to formalize what was already taking place and put it in writing creating

one agreement that expires at the same time. Currently there are agreements for some of the facilities with all different “lives” and ending times. She noted that many of the facilities (i.e. the Tennis Center, the Shaw Park Aquatic Center, etc.) have no agreements and was just practiced in the past. The goal was to formalize what is currently taking place in order to use for future direction. The goal was not to make it equitable, but if we were to look at it from a dollar perspective the School District would benefit more than the City. One reason being that the City has more resources to share. Alderman Boulton agreed.

Alderman Garnholz introduced Bill No. 6532, an ordinance to approve a Reciprocal Facility Use Agreement between the City of Clayton (the “City”) and the School District of Clayton (the “District”) outlining the conditions under which the two parties will share their respective facilities for the first time by title only. Alderman Winings seconded.

City Attorney O’Keefe reads Bill No. 6532, an ordinance to approve a Reciprocal Facility Use Agreement between the City of Clayton (the “City”) and the School District of Clayton (the “District”) outlining the conditions under which the two parties will share their respective facilities for the first time by title only.

The motion passed unanimously on a voice vote.

Alderman Garnholz moved that the Board give unanimous consent to consideration for adoption of Bill No. 6532 on the day of its introduction. Alderman Winings seconded.

The motion passed unanimously on a voice vote.

Alderman Garnholz introduced Bill No. 6532, an ordinance to approve a Reciprocal Facility Use Agreement between the City of Clayton (the “City”) and the School District of Clayton (the “District”) outlining the conditions under which the two parties will share their respective facilities to be read for the second time by title only. Alderman Winings seconded.

Alderman Boulton also noted that the agreement would be in force only if the School District approves it, if not than tonight’s approval of the agreement will be invalid or void.

City Attorney O’Keefe reads Bill No. 6533, an ordinance to approve a Reciprocal Facility Use Agreement between the City of Clayton (the “City”) and the School District of Clayton (the “District”) outlining the conditions under which the two parties will share their respective facilities for the second time by title only.

Alderman Garnholz – Aye; Alderman Winings – Aye; Alderman Boulton – Aye; Alderman Berger – Aye; Alderman Lintz – Aye; Alderman Berkowitz – Aye; and Mayor Sanger – Aye. The bill was adopted and became Ordinance No. 6403 of the City of Clayton.

A MOTION TO CONSIDER APPROVING A LIQUOR LICENSE UPGRADE FOR CRAFT BEER CELLAR, LLC LOCATED AT 8113 MARYLAND AVENUE

City Manager Owens reported that Craft Beer Cellar, LLC is requesting to obtain a by-the-drink liquor license in addition to the license they currently possess (all kinds of intoxicating liquor at retail by the package including Sunday and special permit for wine, malt beverage and distilled spirit tastings) at 8113 Maryland Avenue. This establishment provides beer tastings and would like to sell full drinks of various beers. To accomplish this, they would need a license to sell all kinds of intoxicating liquor at retail by the drink, except Sundays. This is in response to the recent zoning code change allowing package liquor stores the ability to hold a retail by the drink liquor license with certain limitations.

The Police Department has completed its review of the application and supports the issuance of the requested license upgrade. The Planning and Development department has also approved the application upgrade with no objections.

The applicant has chosen not to submit a petition from surrounding property owners and first floor tenants. As a result, they are aware that this application must have a super majority vote of five Board members in order to be approved. Staff has requested that a representative be in attendance at the meeting.

Staff recommends passing a motion to approve the liquor license to sell all kinds of intoxicating liquor at retail by the drink, except Sundays.

Brandon Nicholson, owner/partner, addressed the Board stating that the request is a follow-up due to customer requests that the store offer beer while they shopped. The store will provide 11 ounce cup servings of beer only and no outdoor dining is planned currently.

Alderman Garnholz moved to approve a liquor license upgrade for Craft Beer Cellars. Alderman Winings seconded.

The motion passed unanimously on a voice vote.

A MOTION TO CONSIDER APPROVING THE 2016 BOARD OF ALDERMEN MEETING DATES

The 2016 Board of Aldermen meeting schedule is presented for approval prior to posting. The following calendar dates are scheduled:

January 12 2016	July 12, 2016
January 15, 2016 (Strategic Planning Session)	July 15, 2016 (Strategic Planning Session)
January 26, 2016	July 26, 2016
February 9, 2016	August 9, 2016
February 19, 2016 (Strategic Planning Session)	August 19, 2016 (Strategic Planning Session)
February 23, 2016	August 23, 2016
March 8, 2016	September 13, 2016
March 18, 2016 (Strategic Planning Session)	September 16, 2016 (Strategic Planning Session)
March 22, 2016	September 27, 2016
April 12, 2016	October 14 18, 2016 (due to holiday)
April 15, 2016 (Strategic Planning Session)	October 21, 2016 (Strategic Planning Session)
April 26, 2016	October 25, 2016
May 6-7, 2016 (BOA Retreat)	November 8, 2016
May 10, 2016	November 18, 2016 (Strategic Planning Session)
May 20, 2016 (Strategic Planning Session)	November 22 15, 2016 (due to holiday)
May 24, 2016	
June 14, 2016	December 13, 2016
June 17, 2016 (Strategic Planning Session)	December 16, 2016 (Strategic Planning Session)
June 28, 2016	December 27 20, 2016 (due to holiday)

Recommendation is to approve by motion the 2016 Board of Alderman meeting dates.

The Board discussed and approved alternate dates as noted above.

**Alderman Garnholz moved to approve the 2016 Board of Aldermen Meeting dates as amended.
Alderman Winings seconded.**

The motion passed unanimously on a voice vote.

Other

Alderman Garnholz reported on the following:

- Parks & Recreation Commission –
 - Fox News will broadcast and feature the Shaw Park Ice Rink on January 2.
 - Plans for changes to the entrance to Oak Knoll Park are being discussed. The current deteriorating retaining wall will be removed, possibly opening up as many as 20-25 additional parking spaces.
 - The Commission is planning to discuss the future of the Westmoreland house property.

Alderman Winings reported on the following:

- Clayton Plan Commission/ARB –
 - The Commission recently approved a residential solar array project where the solar panels will be placed on the side of the structure and also a dormer (front-facing). Although the panels on the dormer will be front-facing (not allowed to be seen from the street) the ARB approved it due to the appropriate angle of the dormer.
 - The Commission saw conceptual review plans (only) on the Apogee Project to be located at Forsyth Boulevard (the curve). Proposed plans are to possibly have a drive-through banking facility located on the first floor, east side of the property. The plans received light negative feedback, but overall the project was well received.

Alderman Boulton reported on the following:

- Chapman Plaza
- Attended the Washington University Chancellor's meeting and reported that the University has lots of plans scheduled for building construction.

Alderman Berkowitz reported on the following:

- The Friday evening Ice Skating with Sven and Olaf was a tremendous event!
- The Moorlands Association Meeting is scheduled for Wednesday evening.

Mayor Sanger reported on the following:

- Attended the Chamber's *Pillars of the Community* event. Dave Peacock, Vitaligent LLC was awarded and recognized by the Chamber. He spoke with Josh Ferguson, Kaldi's Coffee and Dean VanderKamp, President, Vitaligent with regard to new development projects coming to Clayton and encouraged them to contact Gary Carter about possibly opening a Kaldi's tea house and a Jamba Juice store in those developments.
- Participated in a webinar, "Assessing Your Community's Age-Friendly Attributes: AARP Livability Index – A Community Planning Tool". He will forward the information to the Board and encouraged them to review.
- Commented that the December 1 issue of *CityViews* was delivered this week. George Ertle noted that he has contacted the Post Office with regard to the delay.

Alderman Berkowitz moved that the Board adjourn to a closed meeting, with a closed vote and record, as authorized by Section 610.021(1), (2) and (3) Revised Statutes of Missouri, relating to legal issues,

real estate and/or personnel, and to discuss matters related to negotiation of a contract pursuant to Section 610.021(12), RSMo. and/or proprietary information pursuant to Sec. 610.021(15), and/or information related to public safety and security measures pursuant to Section 610.021(18) and (19) RSMO. Alderman Lintz seconded the motion.

Alderman Garnholz – Aye; Alderman Winings – Aye; Alderman Boulton – Aye; Alderman Berger – Aye; Alderman Lintz – Aye; Alderman Berkowitz – Aye; and Mayor Sanger – Aye.

There being no further regular business the meeting was adjourned at 7:53 p.m.

Mayor

ATTEST:

City Clerk